

## Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

Number: **201443014**  
Release Date: 10/24/2014

Third Party Communication: None  
Date of Communication: Not Applicable

Index Number: 1362.00-00, 1362.01-00,  
1362.02-00, 1362.02-02

Person To Contact: \_\_\_\_\_, ID No. \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Refer Reply To:  
CC:PSI:B01  
PLR-122290-14

Date:  
July 10, 2014

### LEGEND

X =

State =

D1 =

D2 =

D3 =

D4 =

a =

Dear \_\_\_\_\_ :

This responds to the letter dated June 3, 2014, and subsequent correspondence, submitted on behalf of X, requesting relief under § 1362(f) of the Internal Revenue Code.

### Facts

According to the information submitted, X was incorporated under the laws of State on D1 and elected to be an S corporation for federal tax purposes effective D2. Between D3 and D4, a shares of X's stock may have been owned by an ineligible S corporation shareholder and therefore inadvertently terminated X's S corporation election. X represents that its eligible shareholders have filed all federal income tax returns consistent with X's S corporation election. Moreover, X represents that the circumstances resulting in the possible termination of X's S corporation election were inadvertent and were not motivated by tax avoidance. X and its shareholders have

agreed to make such adjustments, consistent with the treatment of X as an S corporation, as may be required by the Service

### Law

Section 1361(a)(1) defines an "S corporation" as a small business corporation for which an election under § 1362(a) is in effect.

Section 1361(b)(1) defines a "small business corporation" as a domestic corporation which is not an ineligible corporation which does not (A) have more than 100 shareholders, (B) have as a shareholder a person (other than an estate, a trust described in subsection (c)(2), or an organization described in subsection (c)(6)) who is not an individual, (C) have a nonresident alien as a shareholder, and (D) have more than 1 class of stock.

Section 1362(d)(2)(A) provides that an election under § 1362(a) shall be terminated whenever (at any time on or after the 1st day of the taxable year for which the corporation is an S corporation) such corporation ceases to be a small business corporation.

Section 1362(f) provides in part that if (1) an election under § 1362(a) by any corporation was terminated under § 1362(d), (2) the Secretary determines that the circumstances resulting in the termination were inadvertent, (3) no later than a reasonable period of time after the discovery of the circumstances resulting in the termination, steps were taken so that the corporation for which the termination occurred is a small business corporation, and (4) the corporation for which the termination occurred, and each person who was a shareholder in such corporation at any time during the period of inadvertent termination of the S election, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances resulting in the termination, the corporation is treated as an S corporation during the period specified by the Secretary.

### Conclusion

Based solely on the representations made and the information submitted, we conclude that X's S corporation election may have terminated because X may have had an ineligible shareholder. However, we conclude that, if X's S corporation election was terminated, such a termination was inadvertent within the meaning of § 1362(f). Consequently, we rule that X will be treated as continuing to be an S corporation from D3 to D4 and thereafter, provided that X's S corporation election is not otherwise terminated under § 1362(d).

Except for the specific ruling above, we express or imply no opinion concerning

the federal tax consequences of the facts of this case under any other provision of the Code. Specifically, no opinion is expressed concerning whether X was otherwise eligible to be an S corporation.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, we are sending a copy of this letter to X's authorized representatives.

Sincerely,

*Laura C. Fields*

Laura C. Fields  
Senior Technician Reviewer  
Office of Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures (2):

Copy of this letter,  
Copy for § 6110 purposes